

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

THE PRIVATEBANK,

Plaintiff,

v.

Case No. 11-14183

FIDELITY NATIONAL TITLE INSURANCE
COMPANY,

Defendant.

**ORDER DENYING IN PART WITHOUT PREJUDICE DEFENDANT'S MOTION TO
AMEND SCHEDULING ORDER AND RE-SETTING BRIEFING SCHEDULE**

Plaintiff The PrivateBank and Defendant Fidelity National Title Insurance Company began this litigation in September, 2011, and the court issued the first scheduling order shortly thereafter. Since that time, the court has granted three discovery extensions, with the most recent scheduling order setting discovery to conclude by August 10, 2012, and a dispositive motion cut-off of August 17, 2012. Plaintiff moved for summary judgment on August 17, 2012. A response from Defendant would ordinarily be due by September 7, 2012, but on the same day the motion was filed, Defendant filed its motion to extend discovery for a fourth time, asking for an additional forty-five days. The court finds no good cause for extending discovery again and will deny the motion. Fed. R. Civ. P. 16(b)(4).

However, consistent with the court's encouragement, the parties have expressed a mutual interest in mediation and have agreed to mediate on September 12, 2012. In order to allow the parties to focus on mediation, the court will re-set the dispositive

motion briefing schedule, reserving the possibility that additional rescheduling may be considered depending on the results of continuing mediation (*e.g.*, if the court is informed that substantial progress has been made, that the parties appear hopeful, and that additional sessions have been agreed upon). Accordingly,

IT IS SO ORDERED that “Defendant, Fidelity National Title Insurance Company’s, Unopposed Motion to Amend Scheduling Order” [Dkt. # 23] is DENIED IN PART, WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the dispositive motion briefing schedule is adjusted as follows:

Defendant shall file its response to Plaintiff’s motion for summary judgment by **September 28, 2012.**

Plaintiff shall file an optional reply to Defendant’s response by **October 5, 2012.**

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: August 31, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, August 31, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522